

NO. 24910

IN THE INTERMEDIATE COURT OF APPEALS
OF THE STATE OF HAWAII

STATE OF HAWAII, Plaintiff-Appellee, v.
SHANE B. CAMINOS, Defendant-Appellant

APPEAL FROM THE FIRST CIRCUIT COURT
(CR. NO. 00-1-1461)

SUMMARY DISPOSITION ORDER

(By: Burns, C.J., Watanabe and Foley, JJ.)

Defendant-Appellant Shane B. Caminos (Caminos) appeals from the January 15, 2002 Judgment of the Circuit Court of the First Circuit.¹ Caminos was charged with and convicted of "Possession Prohibited of Any Firearm or Ammunition by a Person Convicted of Certain Crimes" in violation of Hawaii Revised Statutes (HRS) § 134-7(b) and (h) (Supp. 2003).²

¹The Honorable Barbara P. Richardson presided.

²HRS § 134-7(b) and (h) (Supp. 2003) provides in relevant part:

§134-7 Ownership or possession prohibited, when; penalty.

. . . .

(b) No person who is under indictment for, or has waived indictment for, or has been bound over to the circuit court for, or has been convicted in this State or elsewhere of having committed a felony, or any crime of violence, or an illegal sale of any drug shall own, possess, or control any firearm or ammunition therefor.

. . . .

(h) Any person violating subsection (a) or (b) shall be guilty of a class C felony; provided that any felon violating subsection (b) shall be guilty of a class B felony. Any person violating subsection (c), (d), (e), (f), or (g) shall be guilty of a misdemeanor.

On appeal, Caminos contends the circuit court erred in its calculations with respect to his October 29, 2001 "Motion to Dismiss Charges for Violation of Rule 48, Hawaii Rules of Penal Procedure, and for Violation of Right to Speedy Trial" (Motion to Dismiss) by (1) excluding the time from May 21, 2001 through July 16, 2001; (2) excluding the time from September 4, 2001 through October 18, 2001; and (3) miscalculating the time periods in ¶¶ 6 and 8 of its November 28, 2001 "Findings of Fact, Conclusions of Law, and Order Denying Motion to Dismiss Charges for Violation of Rule 48 Hawaii Rules of Penal Procedure, and for Violation of Right to Speedy Trial."

Upon carefully reviewing the record and the briefs submitted by the parties and having given due consideration to the arguments advanced and the issues as raised by the parties, we hold that:

(1) the record supports the circuit court's findings that the period of time from May 21, 2001 through July 16, 2001 was properly excluded pursuant to Hawai'i Rules of Penal Procedure (HRPP) Rule 48(c)(4)(i) and (ii) because of the unavailability of the State's material witnesses, State v. Ahlo, 79 Hawai'i 385, 393, 903 P.2d 690, 698 (App. 1995);

(2) the record supports the circuit court's exclusion of the period of time from September 4, 2001 through October 18, 2001, (a) pursuant to HRPP Rule 48(c)(4)(i) because a material

witness was unavailable and (b) pursuant to HRPP Rule 48(c)(8) because defense counsel was unavailable, State v. Gillis, 63 Haw. 285, 288, 626 P.2d 190, 192 (1981); and

(3) the calculation errors in the circuit court's Findings of Fact ¶¶ 6 and 8 were harmless because the errors do not change the outcome of Caminos's HRPP Rule 48 challenge.

Therefore,

IT IS HEREBY ORDERED that the January 15, 2002 Judgment of the Circuit Court of the First Circuit is affirmed.

DATED: Honolulu, Hawai'i, December 31, 2003.

On the briefs:

Emlyn H. Higa
for defendant-appellant.

Mangmang Qiu Brown,
Deputy Prosecuting Attorney,
City and County of Honolulu,
for plaintiff-appellee.

Chief Judge

Associate Judge

Associate Judge